

**WAUKESHA COUNTY BOARD OF ADJUSTMENT  
SUMMARY OF MEETING AUGUST 11, 2004**

The following is a Summary of the Board of Adjustment Meeting held on Wednesday, August 11, 2004, at 6:30 p.m. in Room 255/259 of the Waukesha County Administration Center, 1320 Pewaukee Road, Waukesha County Wisconsin, 53188.

**BOARD MEMBERS PRESENT:** James Ward, Chairman  
Robert Bartholomew  
Paul Schultz  
Walter Tarmann  
Ray Dwyer

**SECRETARY TO THE BOARD:** Peggy S. Pelikan  
Amy A. Barrows

**OTHERS PRESENT:** Jeffrey Eineichner, BA04:062, owner  
Dawn Michelz, BA04:059, neighbor  
Gary Clendenning, BA04:059, neighbor  
Becky Murel, BA04:030, petitioner  
Jan Ryerson, BA04:059, petitioner  
Eric Ryerson, BA04:059, petitioner  
Richard Heinrich, BA04:060, petitioner  
Chris Heinrich, BA04:060, petitioner  
Michael Bedis, BA04:051, petitioner  
John Leopold, BA04:061, owner

The following is a record of the motions and decisions made by the Board of Adjustment. Detailed minutes of these proceedings are not produced, however, a taped record of the meeting is kept on file in the office of the Waukesha County Department of Parks and Land Use, and a taped copy or transcript is available, at cost, upon request.

**SUMMARIES OF PREVIOUS MEETINGS:**

Mr. Tarmann *I make a motion to approve the Summary of the Meeting of July 28, 2004.*

The motion was seconded by Mr. Ward and carried with four yes votes. Mr. Bartholomew abstained for the reason of not being attendance at the July 28, 2004 meeting.

**NEW BUSINESS:**

**BA04:059 ERIC L. RYERSON**

Mr. Dwyer *I make a motion to adopt the staff's recommendation, as stated in the Staff Report, for the reasons stated in the Staff Report with the following changes:*

*The statement that the residence and attached garage must be located at least 30 ft. from the 100-year floodplain of Tierney Lake shall be removed from Condition #1.*

The motion was seconded by Mr. Bartholomew and carried unanimously.

The staff's recommendation was for approval, with the following conditions:

1. The residence and attached garage, must be located at least 30 ft. from the shore and the 100-year floodplain of Tierney Lake, and must be located at least 5 ft. from the established road right-of-way of Road "Q" (45 ft.) as measured to the outer edges of the walls, provided the overhangs do not exceed two (2) ft. in width. If the overhangs exceed two (2) ft. in width, the building must be located the additional distance from the shore, floodplain, and road right-of-way as the overhangs exceed two (2) ft. in width. The total floor area on the property must not exceed 1400 sq. ft. as proposed.
2. Prior to the issuance of a zoning permit, a stake-out survey showing the location of the proposed residence, attached garage, and any other appurtenances, in conformance with the above conditions, must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval.
3. Prior to the issuance of a zoning permit, a complete set of house plans, in conformance with the above conditions, must be submitted to the Planning and Zoning Division staff for review and approval.
4. A detailed grading and drainage plan, showing existing and proposed grades and any proposed retaining walls, must be prepared by a registered landscape architect, surveyor, or engineer and submitted to the Planning and Zoning Division staff for review and approval, prior to the issuance of a zoning permit. This is to ensure the construction of the proposed residence does not result in adverse drainage onto adjacent properties or the road. The intent is that the property be graded according to the approved plan, and also to provide that the drainage remain on the property or drain to the lake, and not to the neighboring properties or the road. The following information must also be submitted along with the grading and drainage plan: a timetable for completion, the source and type of fill, a complete vegetative plan, including seeding mixtures and amount of topsoil and mulch, an erosion and sediment control plan, and the impact of any grading on stormwater and drainage.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

Approval of the requested variances from the road setback, shore and 100-yr. floodplain setback, floor area ratio, and open space requirements with the recommended conditions, allows the petitioner reasonable use of the property, while maintaining the purpose and intent of the Ordinance. Due to the depth of the lot, conformance with the shore, floodplain, and road setback, which would require the depth of the proposed residence to be less than 10 ft., would be unnecessarily burdensome. A hardship exists with respect to open space because it is impossible to conform with the minimum open space requirement of 7,000 sq. ft. when the lot area is only 6,841 sq. ft. Further, conformance with the maximum permitted floor area ratio of

19.5% would allow a total floor area of only 1,334 sq. ft., which would not be consistent with other development in the area. Therefore, the approval of variances from the road setback, shore and floodplain setback, floor area ratio, and open space requirements, with the recommended, modifications and conditions, is in conformance with the purpose and intent of the Ordinance.

**BA04:060 RICHARD HEINRICH**

Mr. Bartholomew

*I make a motion to adopt the staff's recommendation, as stated in the Staff Report, for the reasons stated in the Staff Report with the following changes:*

*Condition #3 shall read as follows: If deemed necessary by the Planning and Zoning Division Staff, a Site Plan/Plan of Operation must be approved by the Waukesha County Park and Planning Commission and the Town of Oconomowoc Plan Commission prior to the issuance of a zoning permit for the sign.*

The motion was seconded by Mr. Tarmann and carried unanimously.

The staff's recommendation was for approval, with the following conditions:

1. The proposed sign must be located outside of the 110 ft. established road right-of-way of C.T.H. "P."
2. The sign shall be a maximum of 40 sq. ft. in size and shall be non-illuminated.
3. A Site Plan/Plan of Operation must be approved by the Waukesha County Park and Planning Commission and the Town of Oconomowoc Plan Commission prior to the issuance of a zoning permit for the sign

The reasons for the recommendation, as stated in the Staff Report, are as follows:

The approval of this request, as conditioned, will allow the petitioner a reasonable use of the property. The sign will be located outside of the established road right-of-way, which will continue to promote the purpose and intent of the Ordinance, intended to provide for convenience of access and to promote the safety and efficiency of the public streets and highways while not adversely affecting the public's use of C.T.H. "P." Therefore, the approval of this request, with the recommended conditions, is in conformance with the purpose and intent of the Ordinance.

**BA04:061 PAUL SCHULTZ – John Leopold (Owner)**

It should be noted that Mr. Schultz excused himself from the Board of Adjustment meeting prior to the deliberation in this case because he was serving as the petitioner. He was not in the boardroom during the deliberation portion of the meeting.

Mr. Tarmann

*I make a motion to adopt the staff's recommendation, as stated in the Staff Report, for the reasons stated in the Staff Report with the following changes:*

- 1. Condition #5 shall be amended to state the detailed grading and drainage plan must be prepared by the petitioner or the architect.*
- 2. Condition #6 shall be amended to read as follows: The owner shall indicate in writing, his willingness to accept the terms of Condition #3.*
- 3. The second sentence of the reasons paragraph shall be removed.*

The motion was seconded by Mr. Dwyer and carried with four yes votes. Mr. Schultz was not present for the vote.

The staff's recommendation was for approval, with the following conditions:

1. The proposed addition must be located, as proposed, at least 21.5 ft. from the established road right-of-way, as measured to the outer edges of the walls, provided the overhangs do not exceed two (2) ft. in width. If the overhangs exceed two (2) ft. in width, the building must be located the additional distance from the established road right-of-way as the overhangs exceed two (2) ft. in width.
2. Prior to the issuance of a zoning permit, the Environmental Health Division must certify that the existing septic system is adequate for the proposed construction, or a sanitary permit for a new waste disposal system must be issued and a copy furnished to the Planning and Zoning Division staff.
3. The portion of the property on the east side of Pretty Lake Rd. (Lot 149 Pretty Lake Addition) and the portion of the property on the west side of Pretty Lake Rd. (part of Outlot "E", Pretty Lake) must be combined by a Certified Survey Map. The Certified Survey Map would need to be approved by the Town of Ottawa and the Waukesha County Planning and Zoning Division Staff, and recorded in the Waukesha County Register of Deed's office, prior to an occupancy permit being issued.
4. Prior to the issuance of a zoning permit, a stake-out survey showing the location of the proposed addition, in conformance with the above conditions, must be prepared by a registered land surveyor and submitted to the Planning and Zoning Division staff for review and approval.
5. A detailed grading and drainage plan, showing existing and proposed grades and any proposed retaining walls, must be prepared by a registered landscape architect, surveyor, or engineer and submitted to the Planning and Zoning Division staff for review and approval, prior to the issuance of a zoning permit. This is to ensure the construction of the proposed addition does not result in adverse drainage onto adjacent properties or the road. The intent is that the property be graded according to the approved plan, and also to provide that the drainage remain on the property or drain to the lake, and not to the neighboring properties or the road. The following

information must also be submitted along with the grading and drainage plan: a timetable for completion, the source and type of fill, a complete vegetative plan, including seeding mixtures and amount of topsoil and mulch, an erosion and sediment control plan, and the impact of any grading on stormwater and drainage.

6. The petitioner shall indicate in writing, his willingness to accept the terms of this action

The reasons for the recommendation, as stated in the Staff Report, are as follows:

Approval of the requested variances from the road setback and remodeling a non-conforming structure in excess of 50% of its fair market value, with the recommended conditions, allows the petitioner reasonable use of the property, while maintaining the purpose and intent of the Ordinance. The residence has already been remodeled in excess of 50% of its fair market value and therefore it is reasonable that a variance be granted from that provision. The approval of the residence for a variance from the road setback requirements, as proposed, allows the petitioner to construct an addition to the residence that would not have an adverse affect on the lake or the road. Pretty Lake Drive is a circle and therefore is used mostly by local residents only. The existing house sits on a slab and may not be able to support a second story addition. In addition, the construction of a new home on the property would require variances as well and therefore it is reasonable that a variance be granted from the road setback requirements. Therefore the proposal, as conditioned, would be in conformance with the purpose and intent of the Ordinance.

**BA04:062 PAUL SCHULTZ – Jeffrey and Kate Eineichner (Owners)**

It should be noted that Mr. Schultz excused himself from the Board of Adjustment meeting prior to the deliberation in this case because he was serving as the petitioner. He was not in the boardroom during the deliberation portion of the meeting.

Mr. Bartholomew

*I make a motion to adopt the staff's recommendation, as stated in the Staff Report, for the reasons stated in the Staff Report with the following changes.*

*1. Condition #3 shall be removed.*

*2. The second sentence of the reasons shall be removed.*

The motion was seconded by Mr. Ward and carried with four yes votes. Mr. Schultz was not present for the vote.

The staff's recommendation was for approval, with the following conditions:

1. The proposed addition must be located no closer to the side lot lines than the existing residence as measured to the outer edges of the walls, provided the overhangs do not exceed two (2) ft. in width. If the overhangs exceed two (2) ft. in width, the building must be located the additional distance from the side lot line as the overhangs exceed two (2) ft. in width.

2. The proposed second story addition shall not extend any closer to the established road right-of-way than the existing residence.
3. A detailed grading and drainage plan, showing existing and proposed grades and any proposed retaining walls, must be prepared by a registered landscape architect, surveyor, or engineer and submitted to the Planning and Zoning Division staff for review and approval, prior to the issuance of a zoning permit. This is to ensure the construction of the proposed addition does not result in adverse drainage onto adjacent properties or the road. The intent is that the property be graded according to the approved plan, and also to provide that the drainage remain on the property or drain to the lake, and not to the neighboring properties or the road. The following information must also be submitted along with the grading and drainage plan: a timetable for completion, the source and type of fill, a complete vegetative plan, including seeding mixtures and amount of topsoil and mulch, an erosion and sediment control plan, and the impact of any grading on stormwater and drainage.
4. An after-the-fact zoning permit and, if necessary, variances for the existing decking must be applied for prior to the issuance of a zoning permit for the addition. An up-to-date plat of survey of the property showing the deck must be submitted with the zoning permit application.

The reasons for the recommendation, as stated in the Staff Report, are as follows:

The approval of the request for variances from the road setback, floor area ratio, open space, and remodeling a non-conforming structure in excess of 50% of its fair market value and the approval of special exception from the offset requirements, with the recommended conditions, allows the petitioner reasonable use of the property while maintaining the purpose and intent of the Ordinance. The residence has already been remodeled beyond 50% of its fair market value and therefore it is reasonable that a variance be granted from that requirement of the Ordinance. The second story addition will not be located any closer to the side lot lines or the established road right-of-way than the existing residence. Therefore the proposal, as conditioned, would be in conformance with the purpose and intent of the Ordinance.

## **OTHER ITEMS REQUIRING BOARD ACTION:**

### **BA04:046 DONALD BLATNIK JR.**

Mr. Tarmann

*I move to amend the motion to read as follows: I make a motion to adopt the staff's recommendation with the conditions stated in the Staff Report and for the reasons stated in the Staff Report with the following addition to the reasons:*

*In addition, the petitioner is proposing to construct a garage on an existing utility easement, which is not possible.*

The motion was seconded by Mr. Schultz and carried with four yes votes; Mr. Dwyer abstained for the reason of not being in attendance at the June 23, 2004 hearing.

**BA04:051 MICHAEL BEDIS**

Mr. Tarmann

*I make a motion to revise Condition No. 4 as follows: "The second story addition shall not extend beyond the footprint of the existing residence and the overhangs shall not exceed 2 ft. in width, with the exception of the two new gables on the north and south sides of the residence, which will extend 9" further than the existing overhangs, a total of 36". The overhangs on the east and west sides of the residence can extend as far as the existing overhangs on the residence, 39" at the peak."*

The motion was seconded by Mr. Bartholomew and carried with 4 yes votes. Mr. Dwyer did not vote since he was not present at the July 14, 2004 meeting.

**BA04:030 THOMAS & REBECCA MUREL**

Mr. Ward

*I make a motion to reconsider the petitioners' request as old business.*

The motion was seconded by Mr. Bartholomew and carried with 3 yes votes. Mr. Tarmann and Mr. Dwyer voted against the motion.

Mr. Schultz

*I make a motion to approve the petitioners revised request to remodel the interior of the existing residence with the following conditions and for the following reasons:*

- 1. The approval to remodel in excess of 50% of the fair market value of a structure shall include interior remodeling of the residence only, specifically, the replacement of a staircase, bathroom remodeling and expansion, and new siding and shingles.*
- 2. The detached garage can be re-sided and re-shingled only, since no permits are required for said activities. Any additional changes to the detached garage shall be reviewed by the Planning and Zoning Division staff, as additional permits and variances may be required.*
- 3. Prior to the issuance of a zoning permit, a complete set of house plans (interior floor plans), in conformance with the above conditions, must be submitted to the Planning and Zoning Division staff for review and approval.*

4. *Prior to the issuance of a zoning permit, the Environmental Health Division must certify that the existing holding tank is adequate for the proposed construction, or a sanitary permit for a new waste disposal system must be issued and a copy furnished to the Planning and Zoning Division staff.*
5. *Any decking and patio brick adjacent to the lake shall be removed prior to the issuance of a zoning permit for the proposed attached garage and addition.*

*The petitioners' proposal, with the recommended conditions, is a reasonable request. No variance is required for general maintenance to a residence or garage. Other than general maintenance, the petitioners are proposing to remodel the interior of the residence only. The petitioners have already received approval in the past to remodel and enlarge the residence in excess of 50% of its fair market value and the current proposal does not require any changes to the existing footprint. Therefore, the proposal is within the purpose and intent of the Ordinance.*

The motion was seconded by Mr. Ward and carried unanimously.

**ADJOURNMENT:**

Mr. Bartholomew

*I make a motion to adjourn this meeting at 8:30 p.m.*

The motion was seconded by Mr. Dwyer and carried unanimously.

Respectfully submitted,

Peggy S. Pelikan  
Secretary, Board of Adjustment